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Kelissa Ronquillo-Griffin

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA**

**KELISSA RONQUILLO-  
GRIFFIN, Individually and On  
Behalf of All Others Similarly  
Situated,**

Plaintiff,

v.

**MRS BPO, LLC, a New Jersey  
limited liability company,**

Defendant.

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**Case No.: '16CV1540 JLS KSC**

**CLASS ACTION**

**COMPLAINT FOR DAMAGES AND  
INJUNCTIVE RELIEF PURSUANT  
TO THE TELEPHONE CONSUMER  
PROTECTION ACT, 47 U.S.C. § 227,  
ET SEQ.**

**JURY TRIAL DEMANDED**

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## INTRODUCTION

1. Plaintiff KELISSA RONQUILLO-GRIFFIN (“Plaintiff”) brings this Class Action Complaint for damages, injunctive relief, and any other available legal or equitable remedies, resulting from the illegal actions of Defendant MRS BPO, LLC (“Defendant”) in negligently and/or intentionally contacting Plaintiff on Plaintiff’s cellular telephone, in violation of the Telephone Consumer Protection Act, 47 U.S.C. § 227 et seq., (“TCPA”), thereby invading Plaintiff’s privacy. Plaintiff alleges as follows upon personal knowledge as to herself and her own acts and experiences, and, as to all other matters, upon information and belief, including investigation conducted by her attorneys.
2. The TCPA was designed to prevent calls like the ones described within this complaint, and to protect the privacy of citizens like Plaintiff. “Voluminous consumer complaints about abuses of telephone technology – for example, computerized calls dispatched to private homes – prompted Congress to pass the TCPA.” *Mims v. Arrow Fin. Servs., LLC*, 132 S. Ct. 740, 744 (2012).
3. In enacting the TCPA, Congress intended to give consumers a choice as to how creditors and telemarketers may call them, and made specific findings that “[t]echnologies that might allow consumers to avoid receiving such calls are not universally available, are costly, are unlikely to be enforced, or place an inordinate burden on the consumer. TCPA, Pub.L. No. 102–243, § 11. Toward this end, Congress found that:
 

[b]anning such automated or prerecorded telephone calls to the home, except when the receiving party consents to receiving the call or when such calls are necessary in an emergency situation affecting the health and safety of the consumer, is the only effective means of protecting telephone consumers from this nuisance and privacy invasion.

*Id.* at § 12; see also *Martin v. Leading Edge Recovery Solutions, LLC*, 2012 WL 3292838, at\* 4 (N.D. Ill. Aug. 10, 2012) (citing Congressional findings

on TCPA's purpose).

4. Congress also specifically found that "the evidence presented to the Congress indicates that automated or prerecorded calls are a nuisance and an invasion of privacy, regardless of the type of call...." *Id.* at §§ 12-13. *See also, Mims*, 132 S. Ct. at 744.

#### JURISDICTION AND VENUE

5. This Court has federal question jurisdiction because this case arises out of violation of federal law. 47 U.S.C. §227(b).
6. Venue is proper in the United States District Court for the Southern District of California pursuant to 28 U.S.C. § 1391 for the following reasons: (i) Plaintiff resides in the City of San Diego, County of San Diego, State of California which is within this judicial district; (ii) the conduct complained of herein occurred within this judicial district; and, (iii) many of the acts and transactions giving rise to this action occurred in this district because Defendant:

- (a) is authorized to conduct business in this district and has intentionally availed itself of the laws and markets within this district;
- (b) does substantial business within this district;
- (c) is subject to personal jurisdiction in this district because it has availed itself of the laws and markets within this district; and,
- (d) the harm to Plaintiff occurred within this district.

#### PARTIES

7. Plaintiff is, and at all times mentioned herein was, a citizen and resident of the City of San Diego, County of San Diego, State of California. Plaintiff is, and at all times mentioned herein was, a "person" as defined by 47 U.S.C. § 153 (39).

1 8. Plaintiff is informed and believes, and thereon alleges, that Defendant is a  
2 company incorporated under the laws of the state of New Jersey. Defendant  
3 is, and at all times mentioned herein was, a corporation and a “person” as  
4 defined by 47 U.S.C. § 153 (39).

5 9. Plaintiff alleges that at all times relevant herein Defendant conducted  
6 business in the State of California and in the County of San Diego, and  
7 within this judicial district.

#### 8 **FACTUAL ALLEGATIONS**

9 10. Plaintiff alleges that at all times relevant herein Defendant conducted  
10 business in the State of California, County of San Diego, and within this  
11 judicial district.

12 11. At no time did Plaintiff ever enter into a business relationship with  
13 Defendant.

14 12. Beginning in November 2014, Defendant initiated multiple telephone  
15 communications to Plaintiff’s cellular telephone number ending in “8382”  
16 using an “automatic telephone dialing system” (“ATDS”), as defined by 47  
17 U.S.C. § 227(a)(1), using an “artificial or prerecorded voice” as prohibited  
18 by 47 U.S.C. § 227(b)(1)(A).

19 13. These calls were for debt collection purposes, and were from telephone  
20 number (619)-320-4740.

21 14. On or about August 12, 2014, Plaintiff, through her Counsel, sent letters  
22 revoking consent to be contacted by any means, including telephonic  
23 communications, to all creditors then listed on her credit report. By sending  
24 the aforementioned letters, Plaintiff revoked any consent, should it have ever  
25 existed in the first place, to be contacted by Defendant or its agent(s).

26 15. On November 11, 2014 at approximately 12:56 p.m. P.S.T., Defendant  
27 initiated multiple telephonic communications from telephone number (619)  
28 320-4740 to Plaintiff’s telephone number ending in “8382,” where

1 Defendant used an ATDS as defined by 47 U.S.C. § 227(a)(1), using an  
2 “artificial or prerecorded voice” as prohibited by 47 U.S.C. § 227(b)(1)(A).

3 16.The ATDS used by Defendant has the capacity to store or produce telephone  
4 numbers to be called, using a random or sequential number generator.

5 17.The ATDS used by Defendant also has the capacity to, and does, dial  
6 telephone numbers stored as a list or in a database without human  
7 intervention.

8 18.Defendant’s calls were placed to a telephone number assigned to a cellular  
9 telephone service for which Plaintiff incurs a charge for incoming calls  
10 pursuant to 47 U.S.C. § 227(b)(1).

11 19.The telephone calls were unwanted by Plaintiff.

12 20.Defendant’s calls constitute calls that were not for emergency purposes, as  
13 defined by 47 U.S.C. § 227(b)(1)(A)(i).

14 21.Plaintiff did not provide Defendant or its agent prior express consent to  
15 receive calls to her cellular telephone, including by means of ATDS and/or  
16 artificial or prerecorded voice message, pursuant to 47 U.S.C. § 227  
17 (b)(1)(A).

18 22.These telephonic communications by Defendants, or their agent(s), violated  
19 47 U.S.C. § 227(b)(1).

20 23.Through Defendant’s aforementioned conduct, Plaintiff suffered an invasion  
21 of a legally protected interest in privacy, which is specifically addressed and  
22 protected by the TCPA.

23 24.Plaintiff was personally affected by Defendant’s aforementioned conduct  
24 because Plaintiff was frustrated and distressed that, Defendant harassed  
25 Plaintiff with calls using an ATDS.

26 25.Defendant’s calls forced Plaintiff and other similarly situated class members  
27 to live without the utility of their cellular phones by forcing Plaintiff and  
28

1 other similarly situated class members to silence their cellular telephones  
2 and/or block incoming telephone calls.

3 26. Defendant's calls to Plaintiff's cellular telephone number were unsolicited  
4 by Plaintiff and without Plaintiff's permission or consent.

5 27. Plaintiff is informed and believes and here upon alleges, that these calls were  
6 made by Defendant and/or Defendant's agent(s), with Defendant's  
7 permission, knowledge, control and for Defendant's benefit.

8 28. Through the aforementioned conduct, Defendant has violated 47 U.S.C.  
9 § 227 et seq.

#### 10 CLASS ACTION ALLEGATIONS

11 29. Plaintiff brings this action on behalf of herself and on behalf of all others  
12 similarly situated ("the Class").

13 30. Plaintiff represents, and is a member of the Class, consisting of:

14 All persons within the United States who received any  
15 telephone call from Defendant or its agent/s and/or  
16 employee/s, not sent for emergency purposes, to said  
17 person's cellular telephone made through the use of any  
18 automatic telephone dialing system and/or with an  
artificial or prerecorded message within the four years  
prior to the filing of this Complaint.

19 31. Defendant and its employees or agents are excluded from the Class.  
20 Plaintiff does not know the number of members in the Class, but believes the  
21 Class members number in the hundreds of thousands, if not more. Thus, this  
22 matter should be certified as a Class action to assist in the expeditious  
23 litigation of this matter.

24 32. Plaintiff and members of the Class were harmed by the acts of Defendant in  
25 at least the following ways: Defendant, either directly or through its agents,  
26 illegally contacted Plaintiff and the Class members via their cellular  
27 telephones by using an ATDS, thereby causing Plaintiff and the Class  
28 members to incur certain cellular telephone charges or reduce cellular

1 telephone time for which Plaintiff and the Class members previously paid,  
2 and invading the privacy of said Plaintiff and the Class members. Plaintiff  
3 and the Class members were damaged thereby.

4 33. This suit seeks only damages and injunctive relief for recovery of economic  
5 injury on behalf of the Class, and it expressly is not intended to request any  
6 recovery for personal injury and claims related thereto. Plaintiff reserves the  
7 right to expand the Class definition to seek recovery on behalf of additional  
8 persons as warranted as facts are learned in further investigation and  
9 discovery.

10 34. The joinder of the Class members is impractical and the disposition of their  
11 claims in the Class action will provide substantial benefits both to the parties  
12 and to the court. The Class can be identified through Defendant's records or  
13 Defendant's agents' records.

14 35. There is a well-defined community of interest in the questions of law and  
15 fact involved affecting the parties to be represented. The questions of law  
16 and fact to the Class predominate over questions which may affect  
17 individual Class members, including the following:

- 18 a) Whether, within the four years prior to the filing of this Complaint,  
19 Defendant or its agents initiated any telephonic communications to the  
20 Class (other than a message made for emergency purposes or made  
21 with the prior express consent of the called party) to a Class member  
22 using any automatic dialing system to any telephone number assigned  
23 to a cellular phone service;
- 24 b) Whether Defendant can meet its burden of showing Defendant  
25 obtained prior express consent (i.e., consent that is clearly and  
26 unmistakably stated);
- 27 c) Whether Defendant's conduct was knowing and/or willful;
- 28



- 1 d) Whether Plaintiff and the Class members were damaged thereby, and  
2 the extent of damages for such violation; and  
3 e) Whether Defendant and its agents should be enjoined from engaging  
4 in such conduct in the future.

5 36. As a person that received at least one telephonic communication from  
6 Defendant's ATDS without Plaintiff's prior express consent, Plaintiff is  
7 asserting claims that are typical of the Class. Plaintiff will fairly and  
8 adequately represent and protect the interests of the Class in that Plaintiff  
9 has no interests antagonistic to any member of the Class.

10 37. Plaintiff and the members of the Class have all suffered irreparable harm as  
11 a result of the Defendant's unlawful and wrongful conduct. Absent a class  
12 action, the Class will continue to face the potential for irreparable harm. In  
13 addition, these violations of law will be allowed to proceed without remedy  
14 and Defendant will likely continue such illegal conduct. Because of the size  
15 of the individual Class member's claims, few, if any, Class members could  
16 afford to seek legal redress for the wrongs complained of herein.

17 38. Plaintiff has retained counsel experienced in handling class action claims  
18 and claims involving violations of the Telephone Consumer Protection Act.

19 39. A class action is a superior method for the fair and efficient adjudication of  
20 this controversy. Class-wide damages are essential to induce Defendant to  
21 comply with federal and California law. The interest of Class members in  
22 individually controlling the prosecution of separate claims against Defendant  
23 is small because the maximum statutory damages in an individual action for  
24 violation of privacy are minimal. Management of these claims is likely to  
25 present significantly fewer difficulties than those presented in many class  
26 claims.

27 ///

28 ///



40. Defendant has acted on grounds generally applicable to the Class, thereby making appropriate final injunctive relief and corresponding declaratory relief with respect to the Class as a whole.

#### **FIRST CAUSE OF ACTION**

#### **NEGLIGENT VIOLATIONS OF THE TCPA**

#### **47 U.S.C. § 227 ET SEQ.**

41. Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.

42. The foregoing acts and omissions of Defendant constitute numerous and multiple negligent violations of the TCPA, including but not limited to each and every one of the above-cited provisions of 47 U.S.C. § 227 et seq.

43. As a result of Defendant's negligent violations of 47 U.S.C. § 227 et seq., Plaintiff and the Class are entitled to an award of \$500.00 in statutory damages, for each and every violation, pursuant to 47 U.S.C. § 227(b)(3)(B).

44. Plaintiff and the Class are also entitled to and seek injunctive relief prohibiting such conduct in the future.

#### **SECOND CAUSE OF ACTION**

#### **KNOWING AND/OR WILLFUL VIOLATIONS OF THE TCPA**

#### **47 U.S.C. § 227 ET SEQ.**

45. Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.

46. The foregoing acts and omissions of Defendant constitute numerous and multiple knowing and/or willful violations of the TCPA, including but not limited to each and every one of the above-cited provisions of 47 U.S.C. § 227 et seq.

47. As a result of Defendant's knowing and/or willful violations of 47 U.S.C. § 227 et seq., Plaintiff and the Class are entitled to an award of \$1,500.00 in

1 statutory damages, for each and every violation, pursuant to 47 U.S.C.  
 2 § 227(b)(3)(B) and 47 U.S.C. § 227(b)(3)(C).

3 48. Plaintiff and the Class are also entitled to and seek injunctive relief  
 4 prohibiting such conduct in the future.

5 **PRAYER FOR RELIEF**

6 **WHEREFORE**, Plaintiff and the Class Members pray for judgment as  
 7 follows:

- 8 • Certify the Class as requested herein;
- 9 • Appoint Plaintiff to serve as the Class Representative in this matter;
- 10 • Appoint Plaintiff's Counsel as Class Counsel in this matter;
- 11 • Providing such further relief as may be just and proper.

12 In addition, Plaintiff and the Class Members pray for further judgment as follows:

13 **FIRST CAUSE OF ACTION FOR NEGLIGENT VIOLATION OF**  
 14 **THE TCPA, 47 U.S.C. § 227 ET SEQ.**

- 15 • As a result of Defendant's negligent violations of 47 U.S.C. § 227(b)(1),  
 16 Plaintiff seeks for herself and each Class member \$500.00 in statutory  
 17 damages, for each and every violation, pursuant to 47 U.S.C.  
 18 § 227(b)(3)(B).
- 19 • Pursuant to 47 U.S.C. § 227(b)(3)(A), injunctive relief prohibiting such  
 20 conduct in the future.
- 21 • Any other relief the Court may deem just and proper.

22 **SECOND CAUSE OF ACTION FOR KNOWING/WILLFUL VIOLATION OF**  
 23 **THE TCPA, 47 U.S.C. § 227 ET SEQ.**

- 24 • As a result of Defendant's knowing and/or willful violations of 47 U.S.C.  
 25 § 227(b)(1), Plaintiff seeks for herself and each Class member \$1,500.00  
 26 in statutory damages, for each and every violation, pursuant to 47 U.S.C.  
 27 § 227(b)(3)(B).

- Pursuant to 47 U.S.C. § 227(b)(3)(A), injunctive relief prohibiting such conduct in the future.
- Any other relief the Court may deem just and proper.

**TRIAL BY JURY**

49. Pursuant to the seventh amendment to the Constitution of the United States of America, Plaintiff is entitled to, and demands, a trial by jury.

Dated: June 20, 2016

Respectfully submitted,

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